QSR Brands Bhd v Suruhanjaya Sekuriti & Anor

COURT OF APPEAL (PUTRAJAYA) — CIVIL APPEAL NO W–02–1216 OF 2005
GOPAL SRI RAM, MOHD GHAZALI AND HASHIM YUSOFF JJCA
13 FEBRUARY 2006

Civil Procedure — Locus standi — Judicial review — Leave — Test in granting leave — Whether applicant adversely affected by decision of commission — Whether court should consider availability of alternative remedy at leave stage — Rules of the High Court 1980 O 53

The appellant was the target company in a take over bid made by Kulim (M) Bhd, the second respondent in this case. On 14 October 2005, the Securities Commission (the first respondent) wrote to the appellant refusing an extension of time for the appellant's board to take the usual steps with regard to the take over bid in accordance with the Take Over Code. The appellant then applied for leave to issue judicial review against the Commission. The respondents appeared at the ex parte hearing and argued that leave should be refused. The learned judge after a protracted hearing refused leave. She concluded that the Commission's letter was a decision within O 53 r 2(4) of the Rules of the High Court 1980. However, she went on to hold that the appellant was not a person 'adversely affected' within the aforesaid sub-rule and accordingly lacked standing to make the application. She also held that the appellant had failed to exhaust the alternative remedy. On these two grounds she refused leave to apply for judicial review.

Held, dismissing the appeal:

(1) Arguments such as the availability of an alternative remedy go to the merits of the substantive application for judicial review and ought never to be dealt with at the leave stage. The sole question at the leave stage was whether the application was frivolous (see para 3). It is only at the hearing of the substantive motion for judicial review that the existence of an alternative remedy becomes relevant. A fortiori, it is a matter which does not fall to be considered on a leave application (see para 10).

(2) The existence of an alternative remedy does not automatically and without more oust the court's judicial review jurisdiction. The proper approach is for the judicial review court to take into account the availability of the alternative remedy in deciding whether to exercise its discretion to grant relief on the substantive application (see para 7).

(3) There is a single test of threshold locus standi for all the remedies that are available under O 53. It is that the applicant should be 'adversely affected'. The phrase calls for a flexible approach. It is for the applicant to show that he falls within the factual spectrum that is covered by the words 'adversely affected'. At one end of the spectrum are cases where the particular applicant has an obviously sufficient personal interest in the legality of the action impugned (see para 16). At the other end of the spectrum are cases where the nexus between the applicant and the legality of the action under challenge is so tenuous that the court may be entitled to disregard it as de minimis. In the middle of the spectrum are cases which are in the nature of a public interest litigation (see para 17). In an ordinary case, if on a reading of the application for leave to issue judicial review the court is satisfied that the applicant has neither a sufficient personal interest in the legality of the impugned action, nor is the application a public interest litigation, then leave may safely be refused on the ground that the applicant is not a person 'adversely affected' (see para 18).

(4) It was apparent on a quick perusal of the facts that the appellant lacked a sufficient personal interest in the legality of the impugned action. This was because the appellant as the target company had no role whatsoever to play by virtue of the Take-over Code. It was not in putative breach of any law by reason of anything the Securities Commission had done or threatened to do (see para 19). Next, this was not a public interest litigation. It was a private interest litigation. So, there was no question of granting the appellant locus standi under the second test. Indeed, this was a case that did not even come within the de minimis rule. It fell wholly outside the spectrum altogether (see para 20). It followed that the learned judge was entirely correct in holding that the appellant lacked threshold standing (see para 21).

[Bahasa Malaysia summary

Perayu merupakan syarikat sasaran dalam tawaran pengambilalihan yang dibuat oleh Kulim (M) Bhd, responden kedua dalam kes ini. Pada 14 Oktober 2005, Suruhanjaya Sekuriti ('responden pertama') telah menulis kepada perayu menolak lanjutan masa untuk lembaga perayu mengambil langkah biasa berkaitan tawaran pengambilalihan menurut Kod Pengambilalihan. Perayu kemudian telah memohon kebenaran untuk mengemukakan semakan kehakiman terhadap Suruhanjaya. Responden-responden hadir di perbicaraan ex parte dan berhujah bahawa kebenaran tersebut patut ditolak. Hakim yang bijaksana selepas perbicaraan yang berpanjangan telah menolak kebenaran tersebut. Beliau memutuskan bahawa surat Suruhanjaya merupakan satu keputusan dalam lingkungan A 53 k 2(4) Kaedah-Kaedah Mahkamah Tinggi 1980. bagaimanapun, beliau selanjutnya telah memutuskan bahawa perayu bukan seorang yang 'adversely affected' dalam lingkungan sub-kaedah tersebut dan oleh demikian tidak cukup layak untuk membuat permohonan itu. Beliau juga memutuskan bahawa perayu telah gagal untuk menggunakan remedi

alternatif. Berdasarkan dua alasan tersebut, beliau telah menolak kebenaran untuk memohon semakan kehakiman. A

Diputuskan, menolak rayuan:

B

(1) Hujah-hujah seperti adanya remedi alternatif mempunyai merit permohonan substantif untuk semakan kehakiman dan tidak patut dibincangkan di peringkat kebenaran. Satu-satunya persoalan di peringkat kebenaran adalah sama ada permohonan itu remeh (lihat perenggan 3). Hanya semasa perbicaraan usul substantif untuk semakan kehakiman barulah kewujudan remedi alternatif menjadi relevan. A fortiori, ia adalah satu perkara yang tidak terangkum untuk dipertimbangkan pada permohonan kebenaran (lihat perenggan 10). C

(2) Adanya remedi alternatif tidak secara automatik dan tanpa merit menyingkirkan bidang kuasa semakan kehakiman mahkamah. Pendekatan betul adalah untuk mahkamah semakan kehakiman itu mengambilkira kewujudan remedi alternatif apabila memutuskan sama ada budi bicaranya untuk memberikan relief terhadap permohonan substantif tersebut (lihat perenggan 7). D

(3) Terdapat satu ujian nilai ambang locus standi untuk semua remedi yang sedia ada di bawah A 53. Ia adalah di mana pemohon itu hendaklah 'adversely affected'. Frasa tersebut harus diberi pendekatan yang fleksibel. Ia adalah untuk pemohon menunjukkan bahawa beliau terangkum di bawah spektrum faktual tersebut yang diliputi oleh perkataan-perkataan 'adversely affected'. Dari satu sudut spektrum itu adalah kes-kes di mana pemohon tertentu itu jelas mempunyai kepentingan peribadi dalam kesahan tindakan yang dipersoalkan (lihat perenggan 16). Dari sudut lain spektrum itu adalah kes-kes di mana nexus antara pemohon dan kesahan tindakan yang dicabar adalah kecil di mana mahkamah berhak untuk tidak mempedulikannya sebagai de minimus. Di tengah spektrum itu adalah kes-kes yang bersifat litigasi demi kepentingan awam (lihat perenggan 17). Dalam kes biasa, jika dengan membaca permohonan kebenaran untuk mengemukakan semakan kehakiman mahkamah berpuas hati bahawa pemohon tidak mempunyai kepentingan peribadi yang memadai dalam kesahan tindakan yang dipersoalkan, maupun permohonan itu satu litigasi demi kepentingan awam, maka kebenaran boleh ditolak atas alasan bahawa pemohon bukan seorang yang 'adversely affected' (lihat perenggan 18). E F G H

(4) Adalah jelas jika diteliti fakta berikut bahawa perayu tidak mempunyai kepentingan peribadi yang memadai dalam kesahan tindakan yang dipersoalkan. Ini adalah kerana perayu sebagai syarikat sasaran tiada peranan untuk dimainkan menurut Kod Pengambilalihan. Ia tidak dianggap sebagai pelanggaran apa-apa undang-undang oleh apa-apa sebab yang Suruhanjaya Sekuriti telah lakukan atau didesak untuk berbuat sedemikian (lihat perenggan 19). Kemudian, ini bukan satu litigasi demi kepentingan awam. Ia adalah satu litigasi kepentingan peribadi. Jadi, tiada persoalan untuk memberikan perayu locus standi di bawah ujian kedua. Bahkan, ini adalah satu kes yang tidak jatuh di bawah rukun de minimis. Ia jatuh di luar spektrum itu I

A sama sekali (lihat perenggan 20). Oleh itu hakim yang bijaksana adalah betul dalam memutuskan bahawa perayu tiada nilai ambang pendirian (lihat perenggan 21).]

Notes

B For a case on judicial review, locus standi, see 2 *Mallal's Digest* (4th Ed) Consolidated Subject Index para 4205.

Cases referred to

Boyce v Paddington Borough Council [1903] 1 Ch 109 (refd)

C *Finlay v Canada* [1986] 33 DLR 421 (refd)

Gouriet v Union of Post Office Workers [1978] AC 435 (refd)

Government of Malaysia v Lim Kit Siang [1988] 2 MLJ 12 (refd)

Government of Malaysia & Anor v Jagdis Singh [1987] 2 MLJ 185 (refd)

D *Harbanslal Sahnia v Indian Oil Corporation Ltd* AIR 2003 SC 2120 (refd)

Inland Revenue Commissioners v National Federation of Self-employed & Small Businesses Ltd [1982] AC 617 (refd)

JP Berthelsen v Director-General of Immigration, Malaysia & Ors [1987] 1 MLJ 134 (refd)

E *Lai Cheng Cheong v Sowaratnam* [1983] 2 MLJ 113 (refd)

Mohamed Nordin bin Johan v Attorney General, Malaysia [1983] 1 MLJ 68 (refd)

Petaling Tin Bhd v Lee Kian Chan & Ors [1994] 1 MLJ 657 (refd)

Supreme Court of India in Malik Brothers v Narendra Dadhich AIR 1999 SC 3211 (refd)

F *Tan Sri Haji Othman Saat v Mohamed bin Ismail* [1982] 2 MLJ 177 (refd)

Tan Tek Seng v Suruhanjaya Perkhidmatan Pendidikan & Anor [1996] 1 MLJ 261 (refd)

Tang Kwor Ham v Pengurusan Danaharta Nasional Bhd [2005] 1 LNS 179 (refd)

G *Thorson v Attorney General of Canada* [1975] 1 SCR 138 (refd)

Legislation referred to

Rules of the Court of Appeal 1994

Rules of the High Court 1980 O 15 r 16, O 29, O 53 r 2(4)

H

Appeal from: Application for Judicial Review No R2–220 of 2005 (High Court, Kuala Lumpur)

Malik Imtiaz Sarwar (Mathew Thomas Philip and Ang Mean Leng with him) (Thomas
I *Philip) for the appellant.*

Dato RR Sethu (SM Meow and Nasha Phedra Amin with him) for the first respondent.

Raja Aziz Addruse (Dato' Cyrus Das, Elisabeth Iype, Lohan Sabapathy and Zainal Abidin Jamal with him) (Zainal Abidin & Co) for the second respondent.

S Narkunavathy for the Attoney-General.

Gopal Sri Ram JCA (delivering judgment of the court):

BACKGROUND

[1] On 5 December 2005, this court was moved on a certificate of urgency for a stay pending appeal. The learned judge's judgment was available and the point at hand was one of law and practice arising from uncontroverted facts. The matter was one of undoubted urgency and importance to all concerned. We accordingly directed that the motion to be treated as the appeal proper and granted the parties dispensation from complying with the Rules of the Court of Appeal 1994. The appeal was then, on application of counsel, heard on 7 December 2005. At the conclusion of arguments, we dismissed the appeal. The reasons for our decision are now produced.

[2] The facts are these. The appellant was the target company in a take over bid made by Kulim (M) Bhd, the second respondent in this case. The appellant's board was obviously unhappy with this. So it engaged the Securities Commission, the first respondent before us, in some correspondence. On 14 October 2005, the Commission wrote refusing an extension of time for the appellant's board to take the usual steps with regard to the take over bid in accordance with the Take Over Code. The appellant then applied for leave to issue judicial review against the Commission. The respondents appeared at the ex parte hearing and argued that leave should be refused. The learned judge after a protracted hearing refused leave. She correctly concluded that the Commission's letter was a decision within O 53 r 2(4) of the Rules of the High Court 1980. However, she went on to hold that the appellant was not a person 'adversely affected' within the aforesaid sub-rule and accordingly lacked standing to make the application. She also held that the appellant had failed to exhaust the alternative remedy. On these two grounds, she refused leave to apply for judicial review. We will in a moment state our views on the conclusion of the learned judge on each of these two points. But we find it convenient to do so in a slightly different order from that adopted by the judge.

THE ALTERNATIVE REMEDY ARGUMENT

[3] The very first point that we would make is that arguments such as the availability of an alternative remedy go to the merits of the substantive application for judicial review and ought never to be dealt with at the leave stage. The sole question at the leave stage is whether the application is frivolous. As Raja Azlan Shah LP observed in *Mohamed Nordin bin Johan v Attorney General, Malaysia* [1983] 1 MLJ 68 (at p 70):

> We allowed the appeal and granted the appellant leave to apply for an order of certiorari because we are of the view that the learned judge was wrong in refusing leave as the point taken was not frivolous to merit refusal of leave in limine and justified argument on a substantive motion for certiorari.

[4] And as Abdoolcader SCJ said in *JP Berthelsen v Director-General of Immigration, Malaysia & Ors* [1987] 1 MLJ 134 (at p 135):

> At the outset of the hearing of the appeal before us we were of the view ex facie that leave should in fact have been granted in the court below as the point taken by the appellant was not frivolous to merit refusal of leave in limine and justified argument on a substantive motion for certiorari.

[5] In *Tang Kwor Ham v Pengurusan Danaharta Nasional Bhd* [2005] 1 LNS 179, this court in its majority judgment sought to collect and discuss the several authorities on the subject and concluded as follows:

> To paraphrase in less elegant language what has been said in these cases, the High Court should not go into the merits of the case at the leave stage. Its role is only to see if the application for leave is frivolous. If, for example, the applicant is a busybody, or the application is made out of time or against a person or body that is immunised from being impleaded in legal proceedings then the High Court would be justified in refusing leave in limine. So too will the court be entitled to refuse leave if it is a case where the subject matter of the review is one which by settled law (either written law or the common law) is non-justiciable, eg, proceedings in Parliament (see art 63 of the Federal Constitution).

That is a view to which we adhere.

[6] In the light of the settled approach to be taken at the leave stage, we are of the respectful view that the learned judge erred in dealing with the alternative remedy argument at the leave stage. She should have curbed the enthusiasm of counsel for the respondents by informing them that the alternative remedy point is one that she was not prepared to deal with in limine but that it would have to be properly taken and dealt with at the hearing of the substantive motion.

[7] The second point we would make is this. The existence of an alternative remedy does not automatically and without more oust the court's judicial review jurisdiction. The proper approach is for the judicial review court to take into account the availability of the alternative remedy in deciding whether to exercise its discretion to grant relief on the substantive application. Thus, in *Harbanslal Sahnia v Indian Oil Corporation Ltd* AIR 2003 SC 2120, RC Lahoti J (later CJ) said:

> So far as the view taken by the High Court that the remedy by way of recourse to arbitration clause was available to the appellants and therefore the writ petition filed by the appellants was liable to be dismissed, suffice it to observe that the rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion. In an appropriate case, in spite of availability of the alternative remedy, the High Court may still exercise its writ jurisdiction in at least three contingencies; (i) where the writ petition seeks enforcement of any of the Fundamental Rights; (ii) where there is failure of principles of natural justice or, (iii) where the orders or proceedings are wholly without jurisdiction or the vires of an Act and is challenged. (See *Whirlpool Corporation v Registrar of Trade Marks, Mumbai and others* (1998) 8 SCC 11).

[8] In *Government of Malaysia & Anor v Jagdis Singh* [1987] 2 MLJ 185, Hashim Yeop A Sani SCJ said (at p 189):

In answer to the first question, we would therefore hold that the discretion is still with the courts, but where there is an appeal provision available to the applicant, certiorari should not normally issue unless there is shown a clear lack of jurisdiction or a blatant failure to perform some statutory duty, or in appropriate cases, a serious breach of the principles of natural justice.

[9] In *Lai Cheng Cheong v Sowaratnam* [1983] 2 MLJ 113, Wan Suleiman FJ said (at p 115):

An applicant for certiorari is not normally obliged to have exhausted his rights of appeal within the administrative hierarchy — see *R v Postmaster General Ex p Carmichael* [1928] 1 KB 291.

Nor need he have, before he can apply for that remedy, exhausted his right of appeal to a court of law. Thus, in *The King v Wandsworth Justices* [1942] 1 KB 281 two summonses were preferred before Wandsworth Justices by the inspector of weights and measures for the county of London against the applicant, Henry Read, a butcher, charging him with having misrepresented by means of tickets the weight of certain meat which he offered for sale. At the hearing of the summonses the tickets were not produced, and, the applicant's counsel having objected to their absence, the solicitor representing the inspector agreed that the question whether or not the absence of the tickets had been satisfactorily accounted for should be treated as a preliminary issue in the proceedings to be decided before determination of the summonses on their merits. The justices, having heard evidence and arguments, withdrew to consider the matter. On their return after a considerable time, the chairman announced that the applicant was acquitted on one summons and convicted on the other and a fine of 10s. was imposed. The applicant obtained leave to make this application for an order of certiorari to remove the conviction into the court that it might be quashed.

[10] In the light of these weighty authorities, it is manifestly clear that it is only at the hearing of the substantive motion for judicial review that the existence of an alternative remedy becomes relevant. A fortiori, it is a matter which does not fall to be considered on a leave application. That brings us to the other point.

LOCUS STANDI

[11] Historically speaking, the requirement of standing to approach a court for judicial review was one that was established by the courts to keep out litigants who had no legitimate grievance against the administrative arm of the State. The object was to prevent them from crossing the threshold of the courts of justice. This requirement established by judges for themselves that only those with a legitimate grievance may cross the threshold and enter the court is what is known as 'threshold *locus standi*'. It is quite different from the doctrine of 'substantive *locus standi*', which falls to be determined by court at the very end of the case, when it comes to decide whether on the facts and circumstances discretion ought to be exercised in the applicant's favour (see *Tan Sri Haji Othman Saat v Mohamed bin Ismail* [1982] 2 MLJ 177).

[12] Under the former O 53, the only remedies available were the prerogative orders of certiorari, prohibition and mandamus. The remedies of declaration and

injunction could not be claimed under O 53. If you wanted a declaration that a particular administrative act was invalid then an O 15 r 16 had to be resorted to; the proceeding had to be commenced either by writ or originating summons. Or if you wanted to restrain by injunction a public decision maker from pursuing a particular course of conduct, you had to resort to O 29 and here too you had to either take out a writ or originating summons. The procedural lacuna in the public law environment produced immense locus standi difficulties for an applicant seeking relief. The problem was one of classification. Declaration and injunction were classified by the courts as private law remedies only to be obtained in a public law action or proceeding by the Attorney-General or upon his relator. So, the test for threshold standing in private law was very strict. It was governed by the judgment of Buckley J in *Boyce v Paddington Borough Council* [1903] 1 Ch 109 where he said:

> A plaintiff can sue without joining the Attorney-General in two cases: first, where the interference with the public right is such as that some private right of his is at the same time interfered with (eg, where an obstruction is so placed in a highway that the owner of premises abutting upon the highway is specially affected by reason that the obstruction interferes with his private right to access from and to his premises to and from the highway); and, secondly, where no private right is interfered with, but the plaintiff, in respect of his public right, suffers special damage peculiar to himself from the interference with the public right.

[13] It is for the foregoing reason that in *United Engineers (M) Berhad v Lim Kit Siang* [1988] 2 MLJ 12, Abdul Hamid CJ (Malaya) identified self interest as an element of the rule of standing to sue for a declaration and injunction in what was essentially a public law action. His Lordship said (at p 27):

> A justification for standing rules relates to standing as a function of the adversary system. Self-interest is seen as the motivating force that will ensure that the parties present their respective positions in the best possible light. If the motivation of self-interest is non-existent so that the ensuing dispute is not with respect to contested rights and obligations of the parties themselves, then the assurance of diligent preparation and argument cannot exist.

[14] This is entirely in keeping with the principles governing standing to obtain private law remedies in a public law context. It demonstrates the approach to *locus standi* in private law proceedings.

[15] By contrast, *certiorari* and the other prerogative remedies were classified as public law remedies which permitted a far more liberal threshold locus standi test to be met. Hence, Lord Wilberforce said in *Gouriet v Union of Post Office Workers* [1978] AC 435 that in applications for prerogative writs in the environment of public law enforcement the courts have allowed applicants 'liberal access under a generous conception of *locus standi*.'

[16] It is to rid this dichotomous approach which often produced injustice that O 53 in its present form was introduced. There is a single test of threshold locus standi for all the remedies that are available under the order. It is that the applicant should be 'adversely affected'. The phrase calls for a flexible approach. It is for the applicant to show that he falls within the factual spectrum that is covered by the

words 'adversely affected'. At one end of the spectrum are cases where the particular applicant has an obviously sufficient personal interest in the legality of the action impugned (see *Finlay v Canada* [1986] 33 DLR 421). This includes cases where the complaint is that a fundamental right such as the right to life or personal liberty or property in the widest sense (see *Tan Tek Seng v Suruhanjaya Perkhidmatan Pendidikan & Anor* [1996] 1 MLJ 261) has been or is being or is about to be infringed. In all such cases, the court must, *ex debito justitiae*, grant the applicant threshold standing. See, for example *Thorson v Attorney General of Canada* [1975] 1 SCR 138.

[17] At the other end of the spectrum are cases where the nexus between the applicant and the legality of the action under challenge is so tenuous that the court may be entitled to disregard it as de minimis. In the middle of the spectrum are cases which are in the nature of a public interest litigation. The test for determining whether an application is a public interest litigation is that laid down by the *Supreme Court of India in Malik Brothers v Narendra Dadhich* AIR 1999 SC 3211, where, when granting leave, it was said:

> [P]ublic interest litigation is usually entertained by a court for the purpose of redressing public injury, enforcing public duty, protecting social rights and vindicating public interest. The real purpose of entertaining such application is the vindication of the rule of law, effective access to justice to the economically weaker class and meaningful realisation of the fundamental rights. The directions and commands issued by the courts of law in public interest litigation are for the betterment of the society at large and not for benefiting any individual. But if the Court finds that in the garb of a public interest litigation actually an individual's interest is sought to be carried out or protected, it would be bounden duty of the court not to entertain such petition as otherwise the very purpose of innovation of public interest litigation will be frustrated.

[18] In an ordinary case, if on a reading of the application for leave to issue judicial review the court is satisfied that the applicant has neither a sufficient personal interest in the legality of the impugned action in the sense already discussed, nor is the application a public interest litigation, then leave may safely be refused on the ground that the applicant is not a person 'adversely affected'. In this context, the court must bear in mind what Lord Diplock said in *Inland Revenue Commissioners v National Federation of Self-employed & Small Businesses Ltd* [1982] AC 617:

> The whole purpose of requiring that leave should first be obtained to make the application for judicial review would be defeated if the court were to go into the matter in any depth at that stage. If, on a quick perusal of the material then available, the court thinks that it discloses what might on further consideration turn out to be an arguable case in favour of granting to the applicant the relief claimed, it ought, in the exercise of a judicial discretion, to give him leave to apply for that relief. The discretion that the court is exercising at this stage is not the same as that which it is called upon to exercise when all the evidence is in and the matter has been fully argued at the hearing of the application.

[19] Take the facts here. It is apparent on a quick perusal of the facts that the appellant lacks a sufficient personal interest in the legality of the impugned action. Because the appellant as the target company has no role whatsoever to play by virtue of the Take-over Code. It is not in putative breach of any law by reason of anything

A the Securities Commission has done or threatened to do. The facts here are readily distinguishable from those of *Petaling Tin Bhd v Lee Kian Chan & Ors* [1994] 1 MLJ 657, the authority relied on by the appellant. In that case, there had been a public censure against certain shareholders in the appellant, Petaling Tin, who were acting in concert. Later Petaling Tin in that case received for registration, transfer forms for
B 250,000 shares registered in the name of the third respondent but beneficially owned by the second respondent. There was a doubt arising from a difference between the appellant and the Panel on Take-overs and Mergers about the interpretation of certain rules in the Take -over Code. There was a real and genuine fear that the registration forms may be invalid. It is in those circumstances that Petaling Tin sought a declaration. There is nothing of the sort, even remotely, here. So *Petaling Tin*
C *Bhd v Lee Kian Chan* is readily distinguishable from the present case.

[20] Next, this is not a public interest litigation. It is a private interest litigation. So, there is no question of granting the appellant *locus standi* under the second test. Indeed, this is a case that does not even come within the *de minimis* rule. It falls
D wholly outside the spectrum altogether.

[21] It follows that the learned judge was entirely correct in holding that the appellant lacked threshold standing. We are therefore of the view that there is no merit in the complaint made against the judge's judgment on the issue of *locus standi.*

E CONCLUSION

[22] For the reasons already given, the appeal failed and was dismissed. The orders that are usually consequent upon a dismissal were made.

F *Appeal dismissed.*

Reported by Loo Lai Mee

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